



MONTHLY PUBLIC NOTICE

January 1, 2007

US Army Corps of Engineers
Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435
<http://www.spa.usace.army.mil/reg/default.asp>

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In reply refer to:
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Section 10 of the Rivers and Harbors Act of 1899 prohibits the unauthorized obstruction or alteration of any navigable water of the United States. Section 404 of the Clean Water Act (33 USC 1233) prohibits the unauthorized discharge of dredged or fill material into the waters of the United States, including wetlands.

1. Except as noted below, the plans for these projects remain as published in their Public Notices. Any special conditions of the state water quality certification have been incorporated into the general conditions of the permit.

2. The following Department of the Army applications that were *issued* by the Albuquerque District during the period of October 1, 2006 through December 31, 2006.

| Public Notice No. | Public Date | Notice Applicant | Description | Date Issued |
|----------------------------------|--------------------|---|---|-----------------------|
| <u>200500337</u> | 29 JUN 2005 | City of Rio Rancho | A permit to place dredged and fill material to construct a connecting trapezoidal earthen channel with concrete grade control structures in Los Milagros Arroyo between the Los Milagros Subdivision and Globe Court diversion in Rio Rancho, Sandoval County, New Mexico | 12 DEC 2006 ISSUED |
| <u>200600169</u> | 18 SEP 2006 | New Mexico Interstate Stream Commission | A permit to place dredged and fill material as Middle Rio Grande Habitat Restoration Project - Phase II, in the Rio Grande in Bernalillo and Sandoval Counties, New Mexico | 06 DEC 2006 ISSUED |
| <u>200600195</u> | 20 JUL 2006 | Sonoran Ridge, LLC | A permit to replace an open channel reach of the Arroyo de las Lomitas Negras with culverts and to fill a tributary arroyo, in Rio Rancho, Sandoval County, New Mexico | 16 OCT 2006 ISSUED |
| <u>200600298</u> | 24 JUL 2006 | La Plata Investments, L.L.C | A permit to place dredged and fill material as detention pond construction and overlot grading in a tributary of Cottonwood Creek in Colorado Springs, El Paso County, Colorado | 23 OCT 2006 ISSUED |

a. Permit Number 2005 00337 – Special conditions are as follows:

1. To mitigate for impacts to 0.79 acre of arroyo, the constructed Los Milagros channel will have an approximately 10-ft wide earthen bottom and 3:1 side slopes. The channel slopes above the ordinary high water mark and adjacent disturbed uplands outside of the constructed channel will be seeded with native grasses, forbs and shrubs. The area of aquatic habitat to be restored below the ordinary high water mark of the constructed channel will be approximately 0.36 ac. Upland habitat will be restored along the side slopes of the new

channel (0.5 ac) and uplands outside the channel (0.6 ac).

2. The reclamation seed mixture will include a variety of native grasses, forbs, and shrubs to improve the likelihood of successful reclamation and provide improved wildlife habitat. The permittee will avoid the introduction of spread of exotic weed species. Terracing, mulching, fertilizing, and/or irrigation will be used as necessary for successful reclamation.
3. Revegetated areas will be monitored for not less than five (5) years to insure plant growth success and sustainability. Post-seeding success required native plant growth having not less than 25 percent foliage cover per square meter.
4. Fences, gates, or other barriers will be installed to prevent off-road vehicle or ATV travel in the channel and reclamation areas.
5. Drop structures and other project features will be designed to maintain up and downstream wildlife movement through the project area.
6. Silt curtains, dikes, straw bales, or other erosion control measures will be used to prevent sediment-laden runoff from entering waterways.
7. Contain any poured concrete in forms and/or behind cofferdams to prevent discharge into waterways. Contain and treat or remove for off-site disposal any wastewater from concrete batching, vehicle wash-down, and aggregate processing.
8. To prevent erosion and structure failure, the permittee will complete construction of all 19 grade control structures with 5 years. Following construction of the trapezoidal channel, the channel and phased installation of grade control structures will be maintained and protected from failure.
9. If any drop structures are proposed for elimination from the design, or a request for permit modification is submitted to the Corps to eliminate one or more drop structures, the permittee will re-calculate the drainage impacts and submit a request to modify previously constructed drop structures to accommodate the change. The connecting channel must be stable both horizontally and vertically upon completion.

b. Public Notice No. 2006 00169 – Special conditions are as follows:

1. All equipment shall be steam cleaned prior arrival on site. Any leaks detected will be fixed prior to arrival onsite. Spill pans and containment diapers will be used on each machine. All heavy equipment used within the floodplain will be inspected daily.
2. The contractor will not store fuel, oil, hydraulic fluid or similar substances within the normal floodplain and will prepare a secondary containment system to prevent spill from primary storage containers. Spill kits will be placed on each vehicle. Should a spill occur, the New Mexico Environment Dept., the Corps of Engineers and the U.S. Fish and Wildlife Service will be notified within 24 hours. All contaminated soils and debris will be removed from the spill site and disposed of at an approved upland facility.
3. Clean, uncontaminated earth or alluvium suitable for revegetation with indigenous plant species will be used for restoration activities.
4. Temporary staging areas and other areas disturbed during construction will be revegetated with native vegetation.
5. To the extent practicable, existing maintenance yards to store and service construction equipment will be utilized.
6. Work will be performed during low-flow conditions. The shortest crossing path will be used to cross the staging areas through the wetted channel to the construction sites.
7. Silt fencing and other erosion controls will be used to minimize increases in turbidity in the stream during and after construction.
8. Water quality will be monitored according to the requirements of the New Mexico Environment Department and the Pueblo of Sandia water quality certifications. Silt fencing and other erosion controls will not be removed until water quality has returned to within 10 percent of the values measured during the pre-construction monitoring.
9. Temporary matting will be used in soft terrain for equipment access to minimize potential erosion and will be removed when no longer necessary.
10. No construction and clearing of vegetation will be performed during the April 15 through August 15 Southwestern willow flycatcher nesting season in areas where nesting areas may exist. If existing vegetation must be removed during this period, a bird survey will be performed to ensure that no nesting Southwestern willow flycatcher birds are present. Construction activity

will cease if a flycatcher is observed and the USFWS notified.

11. If a bald eagle is observed within 0.25-mile of the proposed project area in the morning when activity starts or arrives during breaks in activity, the contractor shall cease all activities until the bird leaves of its own volition or until the project biologist, in consultation with the USFWS determines the potential for harassment is minimal. However, if a bald eagle arrives during construction activities, or is observed more than 0.25-mile from the construction site, activity need not be interrupted.
12. The permittee shall submit a draft mitigation and monitoring plan for restoration of disturbed construction, staging and access areas by January 31, 2007, that will meet the Albuquerque District's mitigation plan guidelines. The permittee is required to submit an annual compensatory mitigation report in the format described at Enclosure 1 of the permit form.
13. The permittee shall meet the Conservation Measures and the Reasonable and Prudent Measures terms and conditions of the U.S. Fish and Wildlife Service's Biological Opinion for the proposed project. The permittee shall submit a copy of all project-related reports to the U.S. Fish and Wildlife Service to the Corps of Engineers.
14. The permittee's responsibility to complete and required compensatory mitigation as set forth in Special Condition No. 12 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.

c. Public Notice No. 2006 00195 – Special conditions are as follows:

1. A final mitigation plan shall be submitted to the Corps for review and approval within 60 days of permit issuance. This plan shall be prepared in accordance with the Albuquerque District's Mitigation and Monitoring Guidelines. The plan shall include replacement burrowing owl habitat and procedures for removal of resident owls prior to construction. The plan shall mitigate for a total of approximately 1.47 acres, at a minimum. The mitigation plan shall include the monitoring of the site for five years to achieve 75% vegetation survival and the submittal of an annual monitoring report.
2. Archeological sites found on the site shall be avoided, in accordance with the concurrence received for the project from the New Mexico State Historic Preservation Office (NMSHPO). In addition, if any unknown sites are discovered during construction, the work must stop at the site of the discovery and the Corps and the NMSHPO consulted on the appropriate action taken. (**NOTE:** Your responsibility to complete the required compensatory mitigation as set forth in Special Condition No. 1 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers. In addition, you are required to submit an annual compensatory mitigation report in the format described at Enclosure 1.)

d. Public Notice No. 2006 00298 – Special conditions are as follows:

1. Erosion control measures will be implemented to prevent upland erosion into the detention pond or into existing wetlands near the project site. All areas disturbed by the permittee or their (sub) contractors will be treated with erosion control measures including placing topsoil, seeding, and mulching within 21 calendar days after final grading or final earth disturbance or in accordance with the erosion control plan required by the City of Colorado Springs. An erosion control plan or proof of the City's approval of an erosion control plan will be provided to the Corps of Engineers within 60 days of permit issuance.
2. Disturbances or impacts to existing wetlands located next to the proposed detention pond will be held to the minimum practicable. Silt fencing, hay bales or other measures will be used to limit project-caused sediment impacts.
3. Noxious weeds will be controlled in all project-disturbed areas within 200 feet of the detention pond during the 5-year maintenance period so that there is less than 5% aerial cover of noxious weeds. A plan for such control will be provided to the Corps of Engineers within 60 days of permit issuance, for review and approval.
4. A detailed mitigation plan will be provided to the Corps of Engineers within 60 days of permit issuance, for review and approval prior to start of project construction. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization. The plan will provide for the mitigation of the loss of 1.36 acres of sedge wetlands and 1.2 acres of open

water/mud flats. 2.65 acres of wet meadow/marsh wetlands will be created in the detention pond bottom and 30 riparian shrubs (0.02 acre) will be planted around the pond margin. The maintenance access bench will be vegetated. The detention pond sides will be planted with a mixture of grasses and forbs and will be left unmowed. The plan will include, but is not limited to, the following items:

- A plan view showing the wetland, shrub, and upland herbaceous planting areas;
 - Species list, planting densities (herbaceous) and number of shrubs (native);
 - Methods and times of year for planting; and
 - A plan for short and long term management and maintenance of the mitigation site, including supplemental shrub watering if needed, replacement of failed plantings before the end of the 5-year monitoring period, and other contingency needs.
5. Mitigation planting will be completed within 6 months of detention pond construction completion.
 6. The mitigation effort must be maintained for at least 5 years including 5 growing seasons or until the Corps of Engineers has determined that the mitigation effort has been successful. The created wetlands will be deemed successful when there is 70% vegetative cover of the planted herbaceous species or similar desirable species and 70% of the planted shrubs are alive at the end of the 5-year period. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition No. 4 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the Corps of Engineers.
 7. The annual monitoring report of mitigation activities is required and will be sent to the Corps of Engineers by December 31 of each year. For the first year, an additional monitoring report is required and is due by July 31. The monitoring report will follow the Albuquerque District's Annual Monitoring Report Format (copy attached).
 8. The mitigation area will be preserved. The design plan drawings will include a sheet showing the mitigation area boundaries to be preserved, location of signs to be placed marking the no-mow areas, and a detail describing the signage. A copy of the drawing will be provided to the Corps of Engineers within 90 days of completion of mitigation construction.
 9. Financial assurances for construction, contingency, and monitoring of the mitigation efforts will be provided sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. Financial assurances may be in the form of performance bonds, escrow accounts, letters of credit, or other instruments approved by the Corps of Engineers. The financial assurance for the construction of the mitigation project will be posted in an amount equal to 115% of the estimated cost of construction. In addition to the 115%, financial assurance to assure the success of the mitigation project will also be posted in an amount equal to 30% of the estimated cost of construction. The total financial assurances will be 145% of the estimated cost of construction. A proposal for financial assurances will be submitted to the Corps of Engineers, for approval, 90 days prior to start of project construction. Financial assurance documents will be forwarded to the Corps of Engineers with 90 days of the Corps of Engineers' approval of the financial assurance proposal. Project construction may begin upon the Corps of Engineers' receipt of the financial assurance and issuance of a start-of-work authorization. The financial assurance will be reviewed annually and adjusted as needed.
 10. Any changes to the location or type of materials to be used in the project must be approved by the Corps of Engineers through a permit modification prior to the changes being implemented.

3. The following Department of the Army applications that were *withdrawn* by the Applicant the period of October 1, 2006, through December 31, 2006.

| Public Notice No. | Public Date | Notice | Applicant | Description | Date Issued |
|-------------------|-------------|--------|------------------------------|--|--------------------------|
| 200600476 | None | | U.S. Army Corps of Engineers | Boat ramp extension in Conchas Reservoir near Conchas Dam, San Miguel County, New Mexico | 12 OCT 2006 WITHDRAWN |

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January 1, 2007

4. Current Regulatory Program Information, including current public notices, is always available on our Regulatory home page at: <http://www.spa.usace.army.mil/reg/> .

5. The record for each permit action may be seen at the Albuquerque District Office, 4101 Jefferson Plaza, NE, Room 302, Albuquerque, NM 87109-3435, or a copy may be obtained upon written request.

6. Any person having questions regarding this Public Notice or the Department of the Army permit program should contact Mr. Donald Borda at (505) 342-3282 for additional information.

BRUCE ESTOK
Lieutenant Colonel, U.S. Army
District Engineer